

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
PETER H. KLEE, Cal. Bar No. 111707
3 JOSEPH E. FOSS, Cal. Bar No. 198294
501 West Broadway, 18th Floor
4 San Diego, California 92101-3598
Telephone: 619.338.6500
5 Facsimile: 619.234.3815
E mail PKlee@sheppardmullin.com
6 JFoss@sheppardmullin.com

7 Attorneys for Defendant ALLSTATE
NORTHBROOK INDEMNITY COMPANY
8 erroneously sued as Allstate Indemnity Company

9 JONATHAN DURHAM, Cal. Bar No. 278227
10 LAW OFFICES OF JONATHAN DURHAM
4600 Northgate Blvd., Suite 145
11 Sacramento, California 95834
Telephone: 888.648.4888
12 Facsimile: 888.321.4869
Email: jonathandurhamlaw@gmail.com

13 Attorneys for Plaintiff JAMES GLORIA

14
15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA
17 SACRAMENTO DIVISION
18

19 JAMES GLORIA,

20 Plaintiff,

21 v.

22 ALLSTATE INDEMNITY
COMPANY, a business entity; and
23 DOES 1 through 50, inclusive,

24 Defendants.

Case No. 2:22-cv-01126-WBS-CKD

Hon. William B. Shubb

Magistrate Judge Carolyn K. Delaney

**STIPULATION AND PROTECTIVE
ORDER RE PRODUCTION OF
DOCUMENTS; [PROPOSED]
ORDER**

[Complaint filed: January 25, 2022]

1 **A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to
8 discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment
10 under the applicable legal principles. The parties further acknowledge, as set forth
11 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
12 file confidential information under seal; Civil Local Rule 141 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the court to file material under seal.

15
16 **B. GOOD CAUSE STATEMENT**

17 This action is likely to involve trade secrets and other sensitive non-public
18 personal, commercial, financial, and/or proprietary information (including
19 information subject to protection pursuant to the privacy protections of state and
20 federal law, including Article I, Section I of the California Constitution), for which
21 special protection from public disclosure and from use for any purpose other than
22 prosecution of this action is warranted. Such confidential and proprietary materials
23 and information consist of, among other things, confidential business or financial
24 information, internal insurance claims handling manuals and other information
25 regarding confidential business practices (potentially including information
26 implicating privacy rights of third parties), information otherwise generally
27 unavailable to the public, or which may be privileged or otherwise protected from
28 disclosure under state or federal statutes, court rules, case decisions, or common

1 law. Specifically, public disclosure of ALLSTATE's internal insurance claims
2 handling manuals, claims software, and other internal business practices would
3 damage ALLSTATE's competitive position by allowing its competitors to learn its
4 proprietary claims handling procedures, which ALLSTATE does not publicly
5 disclose. Accordingly, to expedite the flow of information, to facilitate the prompt
6 resolution of disputes over confidentiality of discovery materials, to adequately
7 protect information the parties are entitled to keep confidential, to ensure that the
8 parties are permitted reasonable necessary uses of such material in preparation for
9 and in the conduct of trial, to address their handling at the end of the litigation, and
10 serve the ends of justice, a protective order for such information is justified in this
11 matter. Moreover, Plaintiff will not challenge ALLSTATE's efforts to seal
12 information it designates confidential consisting of its claim manuals and claim
13 software. It is the intent of the parties that information will not be designated as
14 confidential for tactical reasons and that nothing be so designated without a good
15 faith belief that it has been maintained in a confidential, non-public manner, and
16 there is good cause why it should not be part of the public record of this case.

17
18 **C. DEFINITIONS**

19 (a) Action. *James Gloria v. Allstate Indemnity Company, et al.*, Case No.
20 2:22-cv-01126-WBS-CKD.

21 (b) Challenging Party. A Party or Non-Party that challenges the
22 designation of information or items under this Order.

23 (c) "CONFIDENTIAL" Information or Items. Information (regardless of
24 how it is generated, stored or maintained) or tangible things that qualify for
25 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
26 the Good Cause Statement.

27 (d) Counsel. Outside Counsel of Record and House Counsel (as well as
28 their support staff).

1 (e) Designating Party. A Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 (f) Disclosure or Discovery Material. All items or information, regardless
5 of the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things), that are produced or
7 generated in disclosures or responses to discovery in this matter.

8 (g) Expert. A person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as
10 an expert witness or as a consultant in this Action.

11 (h) House Counsel. Attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 (i) Non-Party. Any natural person, partnership, corporation, association,
15 or other legal entity not named as a Party to this action.

16 (j) Outside Counsel of Record. Attorneys who are not employees of a
17 party to this Action but are retained to represent or advise a party to this Action and
18 have appeared in this Action on behalf of that party or are affiliated with a law firm
19 which has appeared on behalf of that party, and includes support staff.

20 (k) Party. Any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 (l) Producing Party. A Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 (m) Professional Vendors. Persons or entities that provide litigation
26 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
27 demonstrations, and organizing, storing, or retrieving data in any form or medium)
28 and their employees and subcontractors.

1 (n) Protected Material. Any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 (o) Receiving Party. A Party that receives Disclosure or Discovery
4 Material from a Producing Party.

5 (p) Consulting Counsel Access to Confidential Information.

6 (1) Consulting Counsel. As used in this Order, “Consulting
7 Counsel” refers to any attorney, not of record, retained by counsel for a party to
8 consult on matters relating to this litigation.

9 (2) Access to Confidential Information. Confidential Information,
10 as defined in this Order, may be disclosed to Consulting Counsel for purposes of
11 this litigation.

12 (3) Acknowledgement of Protective Order. Before any disclosure,
13 the Consulting Counsel must be provided with a copy of this Protective Order and
14 must agree to be bound by it.

15
16 **D. SCOPE**

17 The protections conferred by this Stipulation and Order cover not only
18 Protected Material (as defined above), but also (1) any information copied or
19 extracted from Protected Material; (2) all copies, excerpts, summaries, or
20 compilations of Protected Material; and (3) any testimony, conversations, or
21 presentations by Parties or their Counsel that might reveal Protected Material.

22 Any use of Protected Material at trial shall be governed by the orders of the
23 trial judge. This Order does not govern the use of Protected Material at trial.

24
25 **E. DURATION**

26 Even after final disposition of this litigation, the confidentiality obligations
27 imposed by this Order shall remain in effect until a Designating Party agrees
28 otherwise in writing or a court order otherwise directs. Final disposition shall be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
2 or without prejudice; and (2) final judgment herein after the completion and
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
4 including the time limits for filing any motions or applications for extension of time
5 pursuant to applicable law.

6
7 **F. DESIGNATING PROTECTED MATERIAL**

8 (a) Exercise of Restraint and Care in Designating Material for Protection.
9 Each Party or Non-Party that designates information or items for protection under
10 this Order must take care to limit any such designation to specific material that
11 qualifies under the appropriate standards. The Designating Party must designate for
12 protection only those parts of material, documents, items, or oral or written
13 communications that qualify so that other portions of the material, documents,
14 items, or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations
17 that are shown to be clearly unjustified or that have been made for an improper
18 purpose (e.g., to unnecessarily encumber the case development process or to impose
19 unnecessary expenses and burdens on other parties) may expose the Designating
20 Party to sanctions.

21 If it comes to a Designating Party's attention that information or items that it
22 designated for protection do not qualify for protection, that Designating Party must
23 promptly notify all other Parties that it is withdrawing the inapplicable designation.

24 (b) Manner and Timing of Designations. Except as otherwise provided in
25 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
26 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
27 under this Order must be clearly so designated before the material is disclosed or
28 produced.

1 Designation in conformity with this Order requires:

2 (1) for information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
6 contains protected material. If only a portion or portions of the material on a page
7 qualifies for protection, the Producing Party also must clearly identify the protected
8 portion(s) (e.g., by making appropriate markings in the margins).

9 A Party or Non-Party that makes original documents available for inspection
10 need not designate them for protection until after the inspecting Party has indicated
11 which documents it would like copied and produced. During the inspection and
12 before the designation, all of the material made available for inspection shall be
13 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
14 documents it wants copied and produced, the Producing Party must determine which
15 documents, or portions thereof, qualify for protection under this Order. Then,
16 before producing the specified documents, the Producing Party must affix the
17 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
18 portion or portions of the material on a page qualifies for protection, the Producing
19 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
20 markings in the margins).

21 (2) for testimony given in depositions that the Designating Party
22 identify the Disclosure or Discovery Material on the record, before the close of the
23 deposition all protected testimony.

24 (3) for information produced in some form other than documentary
25 and for any other tangible items, that the Producing Party affix in a prominent place
26 on the exterior of the container or containers in which the information is stored the
27 legend “CONFIDENTIAL.” If only a portion or portions of the information
28

1 warrants protection, the Producing Party, to the extent practicable, shall identify the
2 protected portion(s).

3 (c) Inadvertent Failures to Designate. If timely corrected, an inadvertent
4 failure to designate qualified information or items does not, standing alone, waive
5 the Designating Party's right to secure protection under this Order for such material.
6 Upon timely correction of a designation, the Receiving Party must make reasonable
7 efforts to assure that the material is treated in accordance with the provisions of this
8 Order.

9
10 **G. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

11 (a) Timing of Challenges. Any Party or Non-Party may challenge a
12 designation of confidentiality at any time that is consistent with the Court's
13 Scheduling Order.

14 (b) Meet and Confer. The Challenging Party shall initiate the dispute
15 resolution process under the local rules.

16 (c) The burden of persuasion in any such challenge proceeding shall be on
17 the Designating Party. Frivolous challenges, and those made for an improper
18 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
19 parties) may expose the Challenging Party to sanctions. Unless the Designating
20 Party has waived or withdrawn the confidentiality designation, all parties shall
21 continue to afford the material in question the level of protection to which it is
22 entitled under the Producing Party's designation until the Court rules on the
23 challenge.

24
25 **H. ACCESS TO AND USE OF PROTECTED MATERIAL**

26 (a) Basic Principles. A Receiving Party may use Protected Material that is
27 disclosed or produced by another Party or by a Non-Party in connection with this
28 Action only for prosecuting, defending, or attempting to settle this Action. Such

1 Protected Material may be disclosed only to the categories of persons and under the
2 conditions described in this Order. When the Action has been terminated, a
3 Receiving Party must comply with the provisions of section 13 below (FINAL
4 DISPOSITION).

5 Protected Material must be stored and maintained by a Receiving Party at a
6 location and in a secure manner that ensures that access is limited to the persons
7 authorized under this Order.

8 (b) Disclosure of “CONFIDENTIAL” Information or Items. Unless
9 otherwise ordered by the court or permitted in writing by the Designating Party, a
10 Receiving Party may disclose any information or item designated
11 “CONFIDENTIAL” only to:

12 (1) the Receiving Party’s Outside Counsel of Record in this Action,
13 as well as employees of said Outside Counsel of Record to whom it is reasonably
14 necessary to disclose the information for this Action;

15 (2) the officers, directors, and employees (including House Counsel)
16 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

17 (3) Experts (as defined in this Order) of the Receiving Party to
18 whom disclosure is reasonably necessary for this Action and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (4) the court and its personnel;

21 (5) court reporters and their staff;

22 (6) professional jury or trial consultants, mock jurors, and
23 Professional Vendors to whom disclosure is reasonably necessary for this Action
24 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
25 A);

26 (7) the author or recipient of a document containing the information
27 or a custodian or other person who otherwise possessed or knew the information;
28

1 (8) during their depositions, witnesses, and attorneys for witnesses,
2 in the Action to whom disclosure is reasonably necessary provided: (1) the deposing
3 party requests that the witness sign the form attached as Exhibit 1 hereto; and
4 (2) they will not be permitted to keep any confidential information unless they sign
5 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
6 agreed by the Designating Party or ordered by the court. Pages of transcribed
7 deposition testimony or exhibits to depositions that reveal Protected Material may
8 be separately bound by the court reporter and may not be disclosed to anyone except
9 as permitted under this Stipulated Protective Order; and

10 (9) any mediator or settlement officer, and their supporting
11 personnel, mutually agreed upon by any of the parties engaged in settlement
12 discussions.

13
14 **I. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
15 **PRODUCED IN OTHER LITIGATION**

16 If a Party is served with a subpoena or a court order issued in other litigation
17 that compels disclosure of any information or items designated in this Action as
18 “CONFIDENTIAL,” that Party must:

19 (a) promptly notify in writing the Designating Party. Such notification
20 shall include a copy of the subpoena or court order;

21 (b) promptly notify in writing the party who caused the subpoena or order
22 to issue in the other litigation that some or all of the material covered by the
23 subpoena or order is subject to this Protective Order. Such notification shall include
24 a copy of this Stipulated Protective Order; and

25 (c) cooperate with respect to all reasonable procedures sought to be
26 pursued by the Designating Party whose Protected Material may be affected.

27 If the Designating Party timely seeks a protective order, the Party served with
28 the subpoena or court order shall not produce any information designated in this

1 action as “CONFIDENTIAL” before a determination by the court from which the
2 subpoena or order issued, unless the Party has obtained the Designating Party’s
3 permission. The Designating Party shall bear the burden and expense of seeking
4 protection in that court of its confidential material and nothing in these provisions
5 should be construed as authorizing or encouraging a Receiving Party in this Action
6 to disobey a lawful directive from another court.

7
8 **J. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
9 **PRODUCED IN THIS LITIGATION**

10 (a) The terms of this Order are applicable to information produced by a
11 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
12 produced by Non-Parties in connection with this litigation is protected by the
13 remedies and relief provided by this Order. Nothing in these provisions should be
14 construed as prohibiting a Non-Party from seeking additional protections.

15 (b) In the event that a Party is required, by a valid discovery request, to
16 produce a Non-Party’s confidential information in its possession, and the Party is
17 subject to an agreement with the Non-Party not to produce the Non-Party’s
18 confidential information, then the Party shall:

19 (1) promptly notify in writing the Requesting Party and the Non-
20 Party that some or all of the information requested is subject to a confidentiality
21 agreement with a Non-Party;

22 (2) promptly provide the Non-Party with a copy of the Stipulated
23 Protective Order in this Action, the relevant discovery request(s), and a reasonably
24 specific description of the information requested; and

25 (3) make the information requested available for inspection by the
26 Non-Party, if requested.

27 (c) If the Non-Party fails to seek a protective order from this court within
28 14 days of receiving the notice and accompanying information, the Receiving Party

1 may produce the Non-Party's confidential information responsive to the discovery
2 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
3 not produce any information in its possession or control that is subject to the
4 confidentiality agreement with the Non-Party before a determination by the court.
5 Absent a court order to the contrary, the Non-Party shall bear the burden and
6 expense of seeking protection in this court of its Protected Material.

7
8 **K. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
13 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
14 persons to whom unauthorized disclosures were made of all the terms of this Order,
15 and (d) request such person or persons to execute the "Acknowledgment and
16 Agreement to Be Bound" that is attached hereto as Exhibit A.

17
18 **L. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
19 **PROTECTED MATERIAL**

20 When a Producing Party gives notice to Receiving Parties that certain
21 inadvertently produced material is subject to a claim of privilege or other protection,
22 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
23 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
24 procedure may be established in an e-discovery order that provides for production
25 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
26 (e), insofar as the parties reach an agreement on the effect of disclosure of a
27 communication or information covered by the attorney-client privilege or work
28

1 product protection, the parties may incorporate their agreement in the stipulated
2 protective order submitted to the court.

3
4 **M. MISCELLANEOUS**

5 (a) Right to Further Relief. Nothing in this Order abridges the right of any
6 person to seek its modification by the Court in the future.

7 (b) Right to Assert Other Objections. By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object to
9 disclosing or producing any information or item on any ground not addressed in this
10 Stipulated Protective Order. Similarly, no Party waives any right to object on any
11 ground to use in evidence of any of the material covered by this Protective Order.

12 (c) Filing Protected Material. A Party that seeks to file any Protected
13 Material must file under seal and comply with Civil Local Rule 141. Protected
14 Material must be filed under seal pursuant to a court order authorizing the sealing of
15 the specific Protected Material at issue.

16
17 **N. FINAL DISPOSITION**

18 After the final disposition of this Action, as defined in paragraph 4, within 60
19 days of a written request by the Designating Party, each Receiving Party must return
20 all Protected Material to the Producing Party or destroy such material. As used in
21 this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
22 summaries, and any other format reproducing or capturing any of the Protected
23 Material. Whether the Protected Material is returned or destroyed, the Receiving
24 Party must submit a written certification to the Producing Party (and, if not the same
25 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
26 (by category, where appropriate) all the Protected Material that was returned or
27 destroyed and (2) affirms that the Receiving Party has not retained any copies,
28 abstracts, compilations, summaries or any other format reproducing or capturing any

1 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
2 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
3 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
4 reports, attorney work product, and consultant and expert work product, even if such
5 materials contain Protected Material. Any such archival copies that contain or
6 constitute Protected Material remain subject to this Protective Order as set forth in
7 Section 4.

8 Any violation of this Order may be punished by any and all appropriate
9 measures including, without limitation, contempt proceedings and/or monetary
10 sanctions.

11 Dated: November 18, 2024 LAW OFFICE OF DURHAM & NG

12 By /s/ Jonathan Amir Durham
13 (as authorized on 11/14/2024)
14 JONATHAN AMIR DURHAM
15 Attorneys for Plaintiff James Gloria

16 Dated: November 18, 2024 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

17 By /s/ Joseph E. Foss
18 JOSEPH E. FOSS
19 Attorneys for Defendant
20 Allstate Northbrook Indemnity Company
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ORDER

The stipulated protective order is approved with the additional clarification that once the Clerk has closed the action, the Court will not retain jurisdiction over enforcement of the terms of the protective order. See Local Rule 141.1(f).

Dated: November 19, 2024



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

8, glor22cv1126.stip.po

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under
penalty of perjury that I have read in its entirety and understand the Stipulated
Protective Order that was issued by the United States District Court for the Eastern
District of California in the case of *James Gloria v. Allstate Indemnity Company, et*
al., Case No. 2:22-cv-01126-WBS-CKD. I agree to comply with and to be bound
by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment
in the nature of contempt. I solemnly promise that I will not disclose in any manner
any information or item that is subject to this Stipulated Protective Order to any
persons or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Eastern District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ [print or type
full name] of _____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective
Order.

Date: _____

City and State where sworn and signed: _____

Printed Name: _____

Signature: _____